

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. On January 5, 2000, the petitioner was told he needed to have an MRI in relation to a new leg injury. He asked for prior approval from VHAP for the procedure and received it.

3. The petitioner's MRI was scheduled for February 4, 2000. The petitioner notified the hospital providing the service that his benefits were ending on January 31, 2000. He was told by the business office not to worry because prior approval had been received from VHAP.

4. The petitioner had the MRI as scheduled. Sometime around the beginning of June he received a bill for \$751 for the MRI which he was informed was not covered by VHAP.

5. After speaking with the health care ombudsman and having no success in getting the bill compromised over the next year, the petitioner filed an appeal before the Human Service Board on September 19, 2001.

#### ORDER

The appeal is dismissed because the Board is without jurisdiction to hear Medicaid (VHAP) appeals more than ninety-days after the grievance arose.

#### REASONS

Under the fair hearing rules adopted by the Human Services Board:

Appeals from decisions by the Department of Social Welfare<sup>1</sup> and the Office of Child Support shall not be considered by the board unless the appellant has either mailed a request for a fair hearing or clearly indicated that he or she wishes to present his or her case to a higher authority within 90 days from the date when his or her grievance arose.

Fair Hearing Rule 1, October 16, 1995

The petitioner knew or should have known when he received the billing from the hospital that he had a "grievance" against the Department for failure to pay for his MRI. In that case, the petitioner must have filed an appeal within 90 days of the beginning of June 2000, which at the latest would have been mid-September of 2000. The petitioner did not file his appeal until one year later. The petitioner did not offer any special circumstances which might have tolled the running of this appeal period. Therefore, it must be concluded that the Board lacks jurisdiction to hear this appeal. See Fair Hearings 14,268, 14,777 and 15,964. The appeal should be dismissed as the Department requests.

The petitioner should be aware that even if he had filed a timely appeal there is nothing in the evidence he offered that would indicate that the Department had caused the petitioner's problem. It appears rather that the hospital was

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<sup>1</sup> PATH, the Department involved in this appeal, is the new name of the Department of Social Welfare.

not attentive to information the petitioner gave it about the cessation of his health insurance. The petitioner is encouraged to pursue this billing dispute with the hospital that performed the MRI.

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